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*Attorneys for The SCO Group, Inc.*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH**

THE SCO GROUP,

Plaintiff/Counterclaim-Defendant

v.

INTERNATIONAL BUSINESS  
MACHINES CORPORATION,

Defendant/Counterclaim-Plaintiff

**DECLARATION OF BRENT O.  
HATCH REGARDING THE  
EXHIBITS TO SCO'S  
MEMORANDUM IN SUPPORT OF  
MOTION FOR SUMMARY  
JUDGMENT ON SCO'S THIRD  
CAUSE OF ACTION FOR BREACH  
OF CONTRACTS**

Case No. 2:03CV0294DAK

Honorable Dale A. Kimball  
Magistrate Judge Brooke C. Wells

I, Brent O. Hatch, declare:

1. I am a citizen of the United States, am over the age of 21, and am competent to testify to the matters set forth herein.

2. I am an attorney at law duly licensed to practice before all the Courts of the State of Utah, and an attorney with the firm of HATCH, JAMES & DODGE PC, counsel for Plaintiff, The SCO Group, Inc., in the pending action.

3. Attached to SCO's Memorandum in Support for Partial Summary Judgment on SCO's Third Cause of Action for Breach of Contracts ("SCO's Memo for PSJ-Contracts") and filed therewith as Exhibit A is a true and correct copy of AT&T - Sequent Software Agreement.

4. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit B is a true and correct copy of AT&T - Sequent Sublicensing Agreement.

5. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit C is a true and correct copy of David Frasure Deposition Transcript, pages 178, dated 6/8/04.

6. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit D is a true and correct copy of David Frasure BSD Deposition Transcript, pages 113, 121, dated 12/8/92.

7. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit E is a true and correct copy Geoffrey Green Deposition Transcript, pages 113, 130-1, dated 11/15/04.

8. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit F is a true and correct copy of Burt Levine Deposition Transcript, pages 38, 40-41, 47, 268, dated 1/19/05.

9. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit G is a true and correct copy of Otis Wilson Deposition Transcript, page 120, dated 8/25/06

10. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit H is a true and correct copy of David Rodgers Deposition Transcript, pages 27, 31-32, 138, dated 6/10/04.

11. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit I is a true and correct copy of David Roger Swanson Deposition Transcript, pages 52, 82, dated 1/17/06.

12. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit J is a true and correct copy of Thomas Cronan Deposition Transcript, page 40, dated 12/14/04.

13. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit K is a true and correct copy of Jeffrey Mobley Deposition Transcript, page 50, dated 1/24/06.

14. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit L is a true and correct copy of Edward Kennedy Deposition Transcript, page 192, dated 3/3/06.

15. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit M is a true and correct copy of Declaration of Ira Kistenberg, ¶ 5, dated 11/12/04.

16. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit N is a true and correct copy of Michael DeFazio Deposition Transcript, page 223, dated 1/13/05.

17. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit O is a true and correct copy of Declaration of Mitzi Bond, ¶ 11(e), dated 11/4/04.

18. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit P is a true and correct copy of Mitzi Bond BSD Deposition Transcript, pages 220-21, dated 12/11/92.

19. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit Q is a true and correct copy of Declaration of Evelyn Davis, ¶ 6(c), dated 11/4/04.

20. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit R is a true and correct copy of Letter from Roger Swanson to Ira Kistenberg, dated May 14, 1987 (1710097859).

21. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit S is a true and correct copy of William Sandve Deposition Transcript, page 11, dated 11/19/04.

22. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit T is a true and correct copy of Report of SCO Expert Marc Rochkind, dated 5/19/06.

23. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit U is a true and correct copy of Rebuttal Report of SCO Expert Marc Rochkind, dated 8/28/06.

24. Attached to SCO's Memo for PSJ-Contracts and filed therewith as Exhibit V is a true and correct copy of Rebuttal Report of SCO Expert Tom Cargill, dated 8/28/06.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 25<sup>th</sup> day of September, 2006.

HATCH, JAMES & DODGE, P.C.

Brent O. Hatch

Mark F. James

BOIES, SCHILLER & FLEXNER LLP

Robert Silver

Stuart H. Singer

Stephen N. Zack

Edward Normand

By:



*Counsel for The SCO Group, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 25<sup>th</sup> day of September, 2006, I caused to be served a true and correct copy of the foregoing by CM/ECF or by U.S. Mail, postage prepaid, to the following:

David Marriott, Esq.  
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A handwritten signature in black ink, appearing to read "T. Shaughnessy", is written over a horizontal line.